

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARIA DEVLIN and JULIE THUMM, individually and on behalf of all others similarly situated	:	CIVIL ACTION
	:	NO. 15-4976
Plaintiffs	:	
	:	CLASS ACTION
v.	:	
	:	
FERRANDINO & SON, INC.	:	
Defendant	:	

AMENDED PRELIMINARY APPROVAL ORDER

AND NOW, this 6th day of April 2016, upon consideration of Plaintiffs' *unopposed motion for preliminary approval of the settlement agreement*, [ECF 39], and with respect to certifying this action as a class action for settlement purposes, this Court finds:

1. The Settlement Class is so numerous that joinder of all members is impracticable.
2. There are questions of law and fact common to the proposed Settlement Class.
3. The individual claims of the Plaintiffs are typical of the claims of the Settlement Class.
4. Plaintiffs are appropriate and adequate representatives for the Settlement Class.
5. The questions of law and fact common to the Settlement Class predominate over any questions affecting only individual members.
6. A class action is superior to other methods for fairly and efficiently settling this controversy.

Therefore, it is hereby **ORDERED**:

A. The Parties' Settlement Agreement is preliminarily approved as fair, reasonable, and adequate pursuant to Fed. R. Civ. P. 23(e), and a fair and reasonable resolution of a *bona fide* dispute under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* ("FLSA").

B. For settlement purposes, Plaintiffs' FLSA claims are conditionally certified pursuant to 29 U.S.C. § 216(b); and the following Settlement Class is preliminarily certified pursuant to Fed. R. Civ. P. 23, pending final approval of the settlement:

all current or former employees of Defendant who performed work as Account Managers at any time between September 3, 2011, and January 5, 2015, and all current or former employees of Defendant who performed work as Account

Managers and performed On Call Work during at least one work week between January 5, 2015, and October 9, 2015.

C. Plaintiffs, **Maria Devlin** and **Julie Thumm**, are preliminarily approved as the Representatives of the Settlement Class.

D. The law firms of **Berger & Montague, P.C.** and **Willig, Williams & Davidson** are preliminarily approved as Class Counsel for the Settlement Class.

E. **The Angeion Group, LLC**, is preliminarily approved as Settlement Administrator and the costs of settlement administration are preliminarily approved.

F. The Class Notice and the Opt-In Consent Form, attached to the Settlement Agreement as Exhibits A and B, are approved, and shall be sent out pursuant to the terms of the Settlement Agreement.

G. The following schedule and procedures for completing the final approval process, as set forth in the Parties' Settlement Agreement are hereby approved:

1) Defendant shall provide Class Counsel and the Settlement Administrator any Settlement Class Contact Information by **April 14, 2016**.

2) The Settlement Administrator is to send the Class Notice and the Opt-In Consent Form under the Class Action Fairness Act ("CAFA") by **April 25, 2016**. This shall be the "date of Notice" as used in the Settlement Agreement. Defendant may send the Notice by any form of U.S. Mail providing forwarding addresses. All notices returned to Defendant by the U.S. Postal Service that bear a forwarding address shall be sent by Defendant to such forwarding addresses by U.S. Mail. Every Class Notice shall include a claim form. The mailing of the Class Notice is the only notice required, and such Notice satisfies the requirements of due process of the Federal Rules of Civil Procedure, including Fed. R. Civ. P. 23, the United States Constitution, and any other applicable law. The Notice will also be emailed to Settlement Class members whose email addresses are known.

3) On **May 25, 2016**, Class Counsel or the Settlement Administrator shall make a duplicate mailing and email to any Settlement Class Members who have not yet returned an Opt-In Consent Form.

4) Opt-In Consent Form Objections and Requests for Exclusion shall be submitted by **June 24, 2016**, the Objection and Exclusion Deadline. Any Settlement Class member who wishes to object to the Settlement must submit his/her objection in writing to the Clerk of Court for the United States District Court for the Eastern District of Pennsylvania, and serve copies of the objection on Class Counsel and Defendant's counsel by **June 24, 2016**. Any objection filed must include the name and telephone number of the objector, the civil action

number of the case, and a statement of the reason why the objector believes that this Court should find that Settlement is not in the best interests of the class. Objectors who have filed written objections to the Settlement may also appear at the final approval hearing and be heard on the fairness of the Settlement. For an objection or a request for exclusion to be effective, the objection or request for exclusion must be postmarked by **June 24, 2016**.

6) Class Counsel is to submit a report to Defendant's counsel by **June 30, 2016**, pursuant to the Settlement Agreement.

7) No later than **July 25, 2016**, Defendant shall file with this Court proof of compliance with the notice requirements of this Order and with CAFA, 28 U.S.C. §1715(b). In said filing, Defendant shall also inform this Court the number of objections and requests to be excluded from the Settlement which were received from Settlement Class members.

8) Plaintiffs' Motion for Final Approval and Motion for Approval of Attorneys' Fees and Costs, consistent with the requirements of Fed. R. Civ. P. 23(h), shall be filed by **September 19, 2016**.

H. A Final Hearing on the fairness and reasonableness of the Settlement Agreement and whether it should be given final approval, and the reasonableness of any request for a service award to the Class Representative and Attorneys' Fees and Costs, will be held on **September 27, 2016**, at 11 AM, Courtroom 8-B, United States Courthouse, 601 Market Street, Philadelphia, PA 19106.

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro
NITZA I. QUIÑONES ALEJANDRO
Judge, United States District Court